

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

December 12, 2007

Charles R. Fulbruge III
Clerk

No. 07-10122
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

CARLOS RUBEN ZUNIGA

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:06-CR-91-1

Before JOLLY, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Carlos Ruben Zuniga pleaded guilty to illegal reentry after deportation and was sentenced to 60 months of imprisonment and three years of supervised release.

Zuniga argues on appeal that the district court erred in denying his motion to withdraw his guilty plea because, in accord with the factors listed in *United States v. Carr*, 740 F.2d 339, 343-44 (5th Cir. 1984), he did not delay in filing his

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

withdrawal motion, he did not have close assistance of counsel, and his plea was not knowing and voluntary because he erroneously thought he was going to be sentenced to 20 years of imprisonment. However, although Zuniga did quickly file his withdrawal motion, none of the remaining Carr factors weighed in his favor. See Carr, 740 F.2d at 343-44. Accordingly, the district court did not abuse its discretion in denying the motion. See United States v. Powell, 354 F.3d 362, 370 (5th Cir. 2003).

AFFIRMED.